

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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BUILDING TRADES EMPLOYERS'  
ASSOCIATION on behalf of THE NEW  
YORK PLAN FOR THE SETTLEMENT  
OF JURISDICTIONAL DISPUTES,

Plaintiff,

v.

JOHN E. MARCHELL, in his official  
capacity as President of LOCAL 3,  
INTERNATIONAL BROTHERHOOD  
OF ELECTRICAL WORKERS and  
LOCAL UNION 3, INTERNATIONAL  
BROTHERHOOD OF ELECTRICAL  
WORKERS,

Defendants,

LOCAL 1, INTERNATIONAL UNION  
OF ELEVATOR CONSTRUCTORS,

Applicant for Intervention.

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Civil Action No. 1:08-cv-04564 DLC

**MOTION FOR LEAVE TO  
INTERVENE AS A PLAINTIFF  
IN ACCORDANCE WITH  
F.R.C.P. 24**

Applicant for Intervention, Local 1, International Union of Elevator Constructors, by and through its attorneys, hereby moves, pursuant to Federal Rule of Civil Procedure 24(a) and (b), for leave to intervene as a plaintiff in the above-captioned matter in order to assert the claims set forth in the proposed complaint, a copy of which is attached.

As grounds for this motion, Applicant for Intervention states the following:

1. Applicant is a labor organization within the meaning of the Labor-Management Relations Act of 1947 with its principal office at 47-24 27th Street, Long Island City, New York 11101.
2. Applicant and the Defendant to the above-captioned action are both parties to, and bound by, the New York Plan for the Settlement of Jurisdictional Disputes (“New York Plan”).
3. Applicant and the Defendant were parties to a jurisdictional dispute regarding elevator work being performed at the Lefrak City Project.
4. On February 26, 2008, the New York Plan issued a decision that Applicant had jurisdiction over the disputed work.
5. The Defendant has failed and refused to comply with the February 26, 2008 decision of the New York Plan.
6. Applicant has a substantial interest in the enforcement of the February 26, 2008 decision of the New York Plan, as specifically and particularly set forth in the attached proposed complaint.
7. Applicant is so situated that the disposition of the above-captioned matter may as a practical matter, impair, impede or destroy Applicant’s ability to protect its own interest with regard to the jurisdictional dispute between Applicant and the Defendant, as well Applicant’s rights pursuant to the New York Plan.
8. Article VI of the New York Plan specifically grants directly affected local unions standing to join any confirmation proceeding commenced by the Plan.
9. The Applicant’s interests are not adequately represented by the present Plaintiff.

WHEREFORE, Applicant prays that this motion be granted.

/s/ Richard H. Markowitz  
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Attorney for the Application for Intervention,  
Local 1, International Union of Elevator Constructors

Dated: May 19, 2008

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Applicant for Intervention.

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Civil Action No 1:08-cv-04564 DLC

**PROPOSED COMPLAINT**

By way of Complaint, the Intervenor, Local 1, International Union of Elevator Constructors (hereinafter "Local 1"), by and through its attorneys, Markowitz and Richman, hereby alleges:

1. Local 1 is a labor organization within the meaning of the Labor-Management Relations Act of 1947, as amended, with its principal office at 47-24 27th Street, Long Island City, New York 11101.

2. This is a suit of a civil nature brought pursuant to §301 of the Labor-Management Relations Act of 1947, as amended, 29 U.S.C. §185, and the Federal Arbitration Act, 9 U.S.C. §9, *et seq.*, seeking an Order: 1) preliminarily and permanently enjoining Defendants John E. Marchell in his official capacity as President of Local Union 3, International Brotherhood of Electrical Workers and Local Union 3, International Brotherhood of Electrical Workers (collectively “Defendants”) from proceeding with certain work in violation of the New York Plan’s Decision issued February 26, 2008; 2) declaring the Defendants are bound and must abide by the New York Plan’s Decision; and 3) confirming the Decision by the New York Plan.
3. Intervenor adopts by reference, as though incorporated in this complaint, all of the allegations of the plaintiff’s complaint.
4. As a result of Defendant’s failure and refusal to comply with the February 26, 2008 decision of the New York Plan, Intervenor has suffered damages in that Local 3’s continuing performance of the elevator work at the Lefrak City Project causes irreparable material, material and grievous injury by depriving members of Intervenor the opportunity to perform work at the Lefrak City Project.

WHEREFORE, Intervenor demands judgment against Defendants, John E. Marchell in his official capacity as President of Local Union 3, International Brotherhood of Electrical Workers and Local Union 3, International Brotherhood of Electrical Workers:

- a. Preliminarily and permanently enjoining Defendant and its members from performing the disputed elevator work at the Lefrak City Project;
- b. Declaring that Intervenor, Local 1, has jurisdiction over the disputed elevator work at the Lefrak City Project, that Local 3 is not entitled to perform the elevator work pursuant to the New York Plan's February 26, 2008 Decision and that Local 3 and its members must immediately cease and desist from performing any elevator work on the Lefrak City Project pursuant to the New York Plan's February 26, 2008 Decision;
- c. Confirming the Decision of the New York Plan dated February 26, 2008;
- d. Awarding Intervenor, Local 1, attorney's fees, costs and such other relief as the Court deems just and proper.

/s/ Richard H. Markowitz  
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Attorney for the Application for Intervention,  
Local 1, International Union of Elevator  
Constructors

Dated: May 19, 2008

**Certificate of Service**

The undersigned hereby certifies that on May 19, 2008, the foregoing documents were filed with the Clerk of the Court via electronic filing and served upon the following parties and participants:

Gregory R. Begg, Esq. **(VIA ECF)**  
Attorneys for Plaintiff Building Trades  
Employers' Association on behalf of  
The New York Plan for the Settlement  
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John E. Marchell **(VIA OVERNIGHT DELIVERY)**  
President, Local 3 International Brotherhood  
of Electrical Workers  
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/s/ Richard H. Markowitz  
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Date: May 19, 2008

Attorney for the Application for Intervention,  
Local 1, International Union of Elevator  
Constructors